

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF THE NATIONAL ORGANIZATION OF
INDUSTRIAL TRADE UNIONS, INSURANCE TRUST
FUND, NOITU INDIVIDUAL ACCOUNT PLAN and
NATIONAL ORGANIZATION OF INDUSTRIAL TRADE
UNIONS,

ORDER
11-CV-1167 (ADS) (ARL)

Plaintiffs,

-vs.-

MIDLAND MANUFACTURING CORP.,

Defendant.
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APPEARANCES:

Barnes, Iaccarino & Shepherd, LLP

Attorneys for the plaintiffs

3 Surrey Lane

Hempstead, NY 11550

By: Danielle Marlene Carney, Esq., Of Counsel

NO APPEARANCE:

Midland Manufacturing Corporation

SPATT, District Judge.

On March 3, 2011, the plaintiffs commenced this action against Midland Manufacturing Corporation (“Midland”) seeking damages and injunctive relief for Midland’s failure to comply with its statutory and contractual obligations arising out of a Collective Bargaining Agreement (“CBA”) entered into between the plaintiffs and Midland. The plaintiffs asserted claims against Midland for breach of the CBA in violation of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. and the Labor Management Relations Act of 1947, 29 U.S.C. § 141, et seq. On June 2, 2011, the Court entered a default judgment against Midland and referred

this matter to United States Magistrate Judge Arlene R. Lindsay for an inquest as to the appropriate injunctive relief and damages, including attorney's fees, and costs.

On December 20, 2011, Judge Lindsay issued a Report and Recommendation, recommending that the Court: (1) deny the plaintiffs' claim for injunctive relief; (2) award the plaintiffs \$18,112.50 for delinquent contributions and \$350 in costs for a total award of \$18,462.50; (3) deny the plaintiff's request for an award of interest on unpaid contributions and for liquidated damages without prejudice to a renewal thereof upon submission of sufficient documentation and recalculation consistent with the Report. To date, there have been no objections filed to Judge Lindsay's Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, it is hereby

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court denies the plaintiffs' request for injunctive relief with prejudice, and denies the plaintiffs' request for interest on unpaid contributions and liquidated damages without prejudice. In addition, the Court awards the plaintiffs \$18,112.50 for delinquent contributions and \$350 in costs for a total award of \$18,462.50, and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the plaintiffs in the amount of \$18,462.50, and it is further

ORDERED, that the plaintiffs are afforded twenty days from the date of this order to submit documentation in support of their requests for interest on unpaid contributions and liquidated damages and recalculations of those amounts consistent with the Report. Failure to submit the additional documentation and recalculation will result in the denial of those requests with prejudice.

SO ORDERED.

Dated: Central Islip, New York
March 2, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge